

## **SALMON**

### **FGC Excerpts**

#### **§7860. Application and fee; Salmon stamps.**

(a) Except as provided in subdivision (f) or (g), no person who is 18 years of age or more and less than 70 years of age, on or before April 1 of the current license year, shall take salmon for commercial purposes or be on board a vessel on which salmon are taken for commercial purposes while salmon are being taken or transported unless that person has a commercial fishing salmon stamp issued pursuant to this section affixed to his or her commercial fishing license.

(b) Except as provided in subdivision (f) or (g), the operator of a vessel on which salmon are taken for commercial purposes shall not permit a person on board that vessel while salmon are being taken or transported unless that person was less than 18 years of age or 70 years of age or more on April 1 of the current license year or that person has a commercial fishing salmon stamp affixed to the person's commercial fishing license.

(c) Except as provided in subdivision (b) of Section 7852.3 and this subdivision, the department shall issue a commercial fishing salmon stamp upon application therefor and payment of the fee of eighty-five dollars (\$85). For any commercial salmon season preceded by a commercial salmon season in which the commercial troll salmon landings in this state equal or exceed 3,000,000 pounds dressed weight, as determined by the department, the fee shall be increased by twelve dollars and fifty cents (\$12.50) for every 250,000 pounds over 3,000,000 pounds of dressed weight landings, except that the total fees as adjusted shall not exceed two hundred sixty dollars (\$260).

(d) A commercial fishing salmon stamp is valid during the commercial salmon season of the year in which it was issued.

(e) Notwithstanding Section 1053, upon application and payment of an additional fee equal to that prescribed in subdivision (c), the department may issue an additional commercial fishing salmon stamp for a crewmember to the owner or operator of a vessel who holds a commercial fishing salmon stamp.

(f) Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial fishing salmon stamp is issued pursuant to subdivision (e) may be aboard that vessel and take salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial fishing salmon stamp under the following conditions:

(1) The crewmember is designated by name and commercial fishing license number on a form furnished by the department before salmon are taken on the vessel when that crewmember is aboard.

(2) The crewmember has a valid commercial fishing license issued under Section 7850.

(3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed in paragraph (1) on which the vessel registration number of the vessel is entered and on which the crewmember who is exempted by this subdivision is designated by the last entered name and commercial fishing license number.

(g) Persons who are exempt from the license requirements, or who are not required to be licensed, pursuant to Section 7850, are exempt from the requirements of this section.

#### **§8231. Definitions.**

The following definitions govern the construction of this article:

(a) "Agent" means the person designated in writing by the owner as the owner's representative.

(b) "Appeal" means a request for reconsideration of an action of the review board, the department, or the commission pursuant to this article.

(c) "Change of ownership" means the transfer of ownership of a

permitted vessel to a new owner.

(d) “Commercial salmon vessel permit” means an annual permit issued by the department to an owner of a commercial fishing vessel for use of that vessel to take salmon for commercial purposes and shall not be considered personal property.

(e) “Fishing potential” means the capability and capacity for harvesting salmon of a particular commercial fishing vessel. “Fishing potential” includes, but is not limited to, a rating based upon factors such as size, seaworthiness, propulsion system, hold size, and hull design.

(f) “Permit” means a commercial salmon vessel permit as defined in subdivision (d).

(g) “Permitted vessel” means a commercial fishing vessel for which a permit is currently valid.

(h) “Replacement vessel” means a commercial fishing vessel for the use of which a permit is proposed to be transferred pursuant to this article.

(i) “Review board” means the commercial salmon fishing review board created pursuant to Section 8247.

(j) “Transfer” means the issuance of a permit for use of a replacement vessel.

#### **§8232. Taking or possessing salmon for commercial purposes.**

It is unlawful to take or possess salmon for commercial purposes on a vessel unless all of the following conditions are met:

(a) The vessel is registered with the department pursuant to Section 7881, and the owner of the vessel has a valid commercial salmon vessel permit for the use of that vessel.

(b) The permit for the use of the vessel is affixed to the vessel adjacent to the department registration number unless otherwise authorized by the department.

(c) The permit affixed to the vessel is visible at all times.

#### **§8232.5. Use of vessel for sport purposes.**

(a) Except as provided in this section, it is unlawful to take salmon for sport purposes on a permitted vessel.

(b) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a vessel licensed as a commercial passenger fishing boat pursuant to Section 7920 and engaged in that business on any day when salmon are not being taken for commercial purposes on that vessel.

(c) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a permitted vessel in the Klamath Management Zone, as designated by the federal Pacific Fisheries Management Council, when the commercial salmon season is closed and after 24 hours after the time when salmon taken during the commercial salmon season are required to be landed.

(d) The use of a vessel pursuant to subdivision (c) shall be considered as being engaged or employed exclusively in the taking and possession of fish or other living resource of the sea for commercial purposes for purposes of subdivision (a) of Section 227 of the Revenue and Taxation Code.

#### **§8233. Period of validity for permit.**

Except as otherwise provided in this article, a permit shall be renewed prior to expiration. Each permit issued by the department shall display the expiration date on the face of the permit.

#### **§8233.3. Issuance of permit renewal.**

Except as otherwise provided in this article, the department shall issue a permit, upon application and payment of the renewal fees pursuant to Section 8235, that is valid for the subsequent permit year, to the owner of a permitted vessel which is registered with the department pursuant to Section 7881.

#### **§8233.4. Issue of permit for replacement vessel.**

Except as otherwise provided in this article, the department shall issue a permit, upon payment of the transfer fees pursuant to subdivision (a) of

Section 8239 and surrender to the department of the permit for the use of the permitted vessel, to the owner of a replacement vessel that is registered with the department pursuant to Section 7881, if the transfer has been approved pursuant to Section 8241.

#### **§8233.5. Change in designation of permitholder.**

Except as otherwise provided in this article, the department shall change the designation of the holder of a permit, and with it shall go all rights, privileges, and obligations of a permit holder, including rights of renewal, upon receipt of a notice of change of ownership to a new owner of a permitted vessel upon change of ownership in the permitted vessel. A permit changed pursuant to this section is valid for the permit year during which it is issued.

#### **§8233.8. Issuance of permit for new entry vessel.**

Except as otherwise provided in this article, the department shall issue a permit to the owner of a commercial salmon fishing vessel that is registered with the department pursuant to Section 7881 for the new entry of that vessel into the commercial salmon fishery if that owner is authorized to be issued a permit for the use of that new entry vessel pursuant to subdivision (b) of Section 8245.

#### **§8233.9. Applicability of provision on eligibility for participation in limited entry fishery.**

Section 8101 does not apply to this article.

#### **§8234. Commercial fishing salmon stamp.**

(a) The department shall not issue a permit under this article unless one of the following first occurs:

(1) The applicant presents to the department a commercial fishing salmon stamp issued to the owner or an agent of the owner. No commercial fishing salmon stamp shall be presented or accepted by the department to authorize issuance of a permit under this section for more than one vessel.

(2) The applicant obtains a commercial fishing salmon stamp and pays the fees for the stamp.

(3) On or before April 1 of the current license year, the owner is 70 years of age.

(b) The first commercial fishing salmon stamp issued to an owner, or that owner’s agent, shall be affixed to the commercial fishing license of that owner or agent. Any additional commercial fishing salmon stamps issued to the owner or the owner’s agent pursuant to paragraph (1) of subdivision (a) for purposes of obtaining permits for use of additional commercial salmon fishing vessels shall be affixed to each additional vessel’s registration issued pursuant to Section 7881.

#### **§8235. Application for permit renewal.**

(a) The owner of a permitted vessel, or that owner’s agent, may apply for renewal of the permit annually on or before March 31, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner’s agent, applies for renewal of the permit, and the application for the renewal is received in an office of the department, or is postmarked if mailed, after March 31 but on or before April 30, the department shall accept the application and, upon payment of an additional late fee of one hundred dollars (\$100), the department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) If the department does not receive a vessel permit renewal application for any vessel for which a vessel permit has been issued, the department shall notify the owner of the vessel. The notice shall be in writing, shall be addressed to the owner at the address listed on his or her most recent vessel permit or vessel permit renewal application, and shall

be sent by first-class mail not later than April 20. The notice shall include all of the following:

- (1) Instruction on how to apply for vessel permit renewal.
- (2) Information on the provisions of sub-division (c).
- (3) Information on the provisions of sub-division (f).

(e) The department shall suspend any late fees otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(f) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

#### **§8236. Notice of renewal to owners.**

(a) The department shall send a written notice of renewal and a permit renewal application to the owner of each currently permitted vessel at the most recent address of that owner in the records of the department. The notice shall be sent by first-class mail before March 1. The department shall mail a copy of the notice for renewal to all associations and groups known to the department to be representing commercial salmon fishermen. The department shall also provide blank permit renewal applications at appropriate offices of the department.

(b) The notice shall include all of the following:

- (1) Instructions on how to apply for renewal of a permit.
- (2) Information on the provisions of subdivisions (c) and (e) of Section 8235.

(c) Failure to receive the notice under this section does not exempt or excuse the owner from the requirement of annual renewal of the permit on or before the permit expiration date.

#### **§8237. Transfer of permit.**

(a) The department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.

(b) The permit shall not be transferred to any other vessel, except by the issuance of a permit for use of the replacement vessel pursuant subdivision (c) and Sections 8239 to 8241, inclusive.

(c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to Section 8241, for use of a replacement vessel.

#### **§8238. Establishment of vessel classification system.**

On or before January 1, 1991, the department, in consultation with the review board, shall establish and adopt, in the manner prescribed in Section 8238.3, a vessel classification system to determine the fishing potential of replacement vessels for applications for transferred permits to be issued pursuant to Section 8241, including consideration of how the vessel from which the permit is sought to be transferred was used, the vessel's highest and best use by a prudent operator, and the fishing potential of prospective vessels for applications for new, original permits.

#### **§8238.1. Use of vessel classification system.**

The vessel classification system shall be used by the department in consultation with the review board for issuance of new original vessel permits pursuant to Section 8243 and as a guideline for the review board in making its recommendations to the department on vessel permit transfers.

#### **§8239. Transfer of permit to replacement vessel.**

A transfer may be approved and a permit issued for use of a replacement vessel pursuant to Section 8241 under all of the following conditions:

- (a) The vessel owner submits a written request for the transfer to the department on a form provided by the department and pays a nonrefundable transfer fee of two hundred dollars (\$200).
- (b) The permit for the permitted vessel is current, and the owner of the

permitted vessel makes assurances in the application that any renewal of the permit which becomes due during the application processing period will be made.

(c) The owner of the permitted vessel submits evidence with the application sufficient to establish that he or she is the owner of the permitted vessel at the time of the application for the transfer.

(d) The vessel owner submits evidence with the application sufficient in the judgment of the review board and the department to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.

(e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her information and belief.

(f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained in the previous application, as determined by the department and after consultation with the review board.

(g) The permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel. For purposes of this subdivision and subdivision (h) "permittee" means an individual designated as the owner of the permitted vessel.

(h) Except as provided in Section 8239.1 or paragraph (5) of subdivision (a) of Section 8246.7, the permittee has maintained a 50 percent or greater ownership interest in the permitted vessel for not less than 18 months prior to the date of the transfer and the permit for use of the permitted vessel has been maintained for that vessel and has not been previously transferred less than 18 months prior the date of the transfer.

(i) The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

#### **§8239.1. Transfer of permit where vessel is lost, stolen, or destroyed.**

(a) Unless otherwise prohibited, the department shall accept a transfer application within one year after the date that a permitted vessel was lost, stolen, or destroyed, notwithstanding any inability to physically examine the permitted vessel to determine its salmon fishing potential. Only the permittee at the time of the loss, theft, or destruction of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss.

(b) (1) The owner, or the owner's agent, may request an extension of the time to complete a transfer under subdivision (a) if the application for extension is submitted before the end of the time to submit an application under subdivision (a), or before the end of any previous extensions granted under this subdivision, whichever date is later.

(2) The department, after consultation with the review board and for good-cause shown, including, but not limited to, inability to find a replacement vessel or pending litigation, may grant an extension of the time to complete a transfer under subdivision (a) for a period of six months. The department may grant further extensions under this subdivision, not to exceed a total time period of five years after the date the permitted vessel was lost, stolen, or destroyed if the permit fees are paid annually as required in paragraph (2) of subdivision (b) of Section 8239 and subdivision (c) of Section 8240.

#### **§8239.2. Establishment of administrative procedures.**

The department, in cooperation with the review board, shall establish and implement administrative procedures for the administration of this article.

#### **§8239.6. Period of validity of permit for replacement vessel.**

A permit issued for the use of a replacement vessel under Section 8241 is valid for the balance of the permit year for which the permit for the use of the permitted vessel was originally issued or last renewed, and the permit issued under this section authorizes the use of the replacement vessel only for that period.

#### **§8239.9. Determination of fishing potential of vessel prior to transfer application.**

Notwithstanding Section 8239, 8239.1, or 8239.2, any person may request the review board to determine the fishing potential of any permitted vessel or any replacement vessel before a transfer application for a permit for use of a replacement vessel is submitted to the department. The person making a request under this subdivision is not required to be the owner of either vessel. A determination under this subdivision is not binding on the review board or the department and is only advisory.

#### **§8240. Grounds for refusal to issue permit for replacement vessel.**

(a) The department shall not issue a permit for use of a replacement vessel if the permitted vessel was reported as lost, stolen, or destroyed by fraudulent means or for fraudulent purposes.

(b) The department shall not issue a permit for use of a replacement vessel if the application contains or is accompanied with fraudulent or willfully misleading information.

(c) The department shall not issue a permit for use of a replacement vessel or to a new owner of a permitted vessel if the permit for the permitted vessel expires and is not renewed. Except as provided in Section 8235, an owner of a permitted vessel shall renew the permit before the expiration date even if that owner has a transfer application pending.

(d) The department may refuse to issue a permit for use of a replacement vessel or to issue a permit to a new owner of a permitted vessel on any grounds for which a permit may be suspended or revoked.

#### **§8241. Criteria for issuance of permit for replacement vessel.**

The department shall issue the permit for use of a replacement vessel if it determines, after consultation with the review board, the following:

(a) The replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel. The review board and the department shall consider the type of fishery the vessel was previously used in and the vessel's highest and best use by a prudent operator, and the review board shall make written findings on those facts.

(b) The replacement vessel's fishing potential will not substantially increase fishing capacity over that which resulted from the operation of the permitted vessel.

(c) The applicant owns the replacement vessel.

(d) The conditions in this article are satisfied.

#### **§8242. Permit to gain entry into fishery.**

A person seeking to gain entry into the commercial salmon fishery may obtain a permit under either of the following conditions:

(a) By legally obtaining the ownership of a permitted vessel and notifying the department of the change of ownership of the permitted vessel.

(b) By applying to obtain a new, original permit issued by the department pursuant to Sections 8244 and 8245.

#### **§8243. Issuance of new, original permits.**

(a) If the department determines that the number of permitted vessels is less than 2,500, the department shall determine, after consultation with the review board, the number and vessel classification for which any new, original permits may be issued to bring the total number of permitted vessels to no more than 2,500.

(b) New original permits to be issued shall be authorized by vessel classifications established under Section 8238.

#### **§8244. Application for new, original permit.**

(a) An applicant may apply for a new, original permit as either an individual, a joint venture, or a corporation. The applicant may submit only one application annually. The application shall be made on a form provided by the department.

(b) An applicant for a new, original permit under this section shall submit a completed application as directed by the department. The completed application, and the application fees prescribed in subdivision (c), shall be delivered or postmarked on or before February 1, in order to be considered for permits for the subsequent permit year.

(c) The applicant shall submit with the application a nonrefundable application fee determined by the department in an amount sufficient to pay the costs of administering the issuance of new, original permits by the department, which shall be not less than thirty-five dollars (\$35).

(d) The department, after consultation with the review board, shall determine the fishing potential of the vessel for use of which the new, original permit is to be issued and otherwise determine if the applicant is eligible to be issued a permit under this article.

#### **§8245. Drawing for new, original permits; Fees; Requirements.**

(a) The department shall conduct a drawing from the applicants determined to be eligible for new, original permits pursuant to Section 8244 on the first Friday in March of each year that new, original permits are authorized to be issued pursuant to Section 8243.

(b) (1) The department shall issue a permit to each of those applicants who are drawn upon payment of the fees prescribed in paragraph (2) for the permit and, except as provided in subdivision (d), submit of sufficient information to establish that the applicant is the owner of a vessel within the vessel classification designated in the application.

(2) The amount of the fees for a permit issued under this section are the same as the amount of the fees for renewal of a permit for the subsequent license year beginning on April 1 which are established pursuant to subdivision (b) of Section 8235. A successful applicant shall pay the fees for the permit on or before March 31. The department shall deposit the fees in the fund pursuant to Section 13001.

(c) Except as provided in subdivision (d), a successful applicant shall submit proof of ownership of the vessel to be used under the permit within 90 days of the drawing.

(d)(1) A successful applicant may request one extension of no more than 90 days to obtain a vessel as designated in the application. The department, after consultation with the review board, may grant that extension.

(2) If any successful applicant does not establish that he or she is the owner of a vessel as designated in the application and affix the new permit on that vessel or on another vessel with the same or less fishing potential, as determined by the department after consultation with the board, within 90 days or by the end of a 90 day extension granted by the department, the new permit is null and void.

(3) The department or the review board is not liable for any risk of failure by the applicant to obtain a vessel which is designated in an application or to complete the process for determination of the fishing potential of another vessel, or for failure by the applicant to obtain that other vessel, in the time prescribed in this section.

#### **§8245.5. Review of new entry provisions.**

The review board shall review the effectiveness of new entry provisions every three years beginning three years following the first permit drawing and make recommendations to the department for any changes it finds to be needed in the new entry system.

#### **§8246. Suspension or revocation of fishing privilege; Civil damages.**

(a) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege is issued by the commission, and before the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(b) The commission, after notice and opportunity for hearing and consultation with the review board, may suspend or revoke the commercial fishing privilege, authorized under a license issued for the purposes of Section 7850 or 7852.3, for any violation of a term or condition of an agreement to compromise or dismiss a separate



suspension or revocation action which was made pursuant to subdivision (a).

(c) If the commission orders a suspension or revocation of a person's commercial salmon fishing privilege, any permit issued pursuant to this article shall be renewed when the next renewal is due or the permit shall expire as provided in Section 8233.

(d) Subdivision (b) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

#### **§8246.2. Amount of civil damages.**

(a) The commission, in consultation with the department and the review board, shall adopt regulations for the determination of civil damages provided for in subdivision (b) of Section 8246 which give due consideration to the appropriateness of the civil damages with respect to all of the following factors:

- (1) The gravity of the violation.
- (2) The good faith of the convicted licensee.
- (3) The history of previous violations.
- (4) The damage to the fishery.
- (5) The cost of restoration of the fishery.

(b) Civil damages imposed under subdivision (b) of Section 8246 shall be due and payable on or before a date which is 30 days after the compromise is entered into.

#### **§8246.4. Revocation of permit obtained by fraud.**

The commission, after notice and opportunity for hearing and consultation with the review board, shall revoke a commercial salmon vessel permit issued pursuant to this article if the vessel permit was obtained by fraudulent means.

#### **§8246.6. Appeals of adverse orders regarding permits.**

A person whose commercial salmon fishing vessel permit is revoked by the commission or who has been denied a permit transfer may appeal the revocation or denial to the commission by submitting the appeal in writing to the commission within 60 days of the decision.

#### **§8246.7. Reversal of adverse order regarding permit.**

(a) The commission shall reverse an order of revocation, order the permit renewed, or order the approval of a permit transfer only if it finds one of the following grounds:

(1) The permittee failed to submit an application and pay the fees for renewal on or before April 30 pursuant Section 8235 and the failure to renew a permit until after the expiration date was due to death, physical illness, mental incapacity, or being called to active military duty, and the person was not reasonably able to have an agent renew the permit.

(2) A lienholder of a permitted vessel, if the vessel is the property of the lienholder as a result of foreclosure, surrender, or litigation, can show loss due the nonrenewal of a permit by the permittee, and the nonrenewal occurred without the knowledge of the lienholder.

(3) If, in the case of permit revocation because of fraud, evidence is provided to the commission disputing the charges of fraud. If the commission finds there was no fraud after consideration of all of the evidence, the commission may order the revocation annulled, and, if the permit expiration date has passed during the pendency of the hearing on the appeal, the commission may order the department to renew the permit upon payment of the fees.

(4) The denial of the permit transfer was arbitrary or capricious.

(5) The denial of the permit transfer was pursuant to subdivision (g) or (h) of Section 8239 and the applicant can show that the 18-month requirement cannot be met due to death, physical illness, mental incapacity, or being called to active military duty.

(b) Each appeal shall be heard and considered separately on its own merits.

#### **§8246.8. Authority to make and enforce regulations.**

The commission and the department may make and enforce regulations that may be necessary or convenient for carrying out any power, authority, or jurisdiction delegated to it under this article.

#### **§8247. Establishment of review board.**

There is in the department a commercial salmon fishing review board, which consists of five voting members appointed by the director. The director or a designee of the director shall attend meetings of the review board as a nonvoting member. The director may remove a member of the review board for cause.

##### **§8247.1. Membership of board.**

(a) Three of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by associations or groups representing commercial salmon fishing vessel owners.

(b) Two of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by individual commercial salmon fishing vessel owners.

(c) Any voting member of the review board may appoint an alternate member to represent him or her at any meeting of the review board. The director may, within 60 days of the appointment, refuse an alternate member. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties of a member of the commercial salmon fishing review board, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

##### **§8247.2. Terms of appointment of board.**

The terms of the members of the review board shall be for staggered four year terms. Necessary and proper expenses shall be paid to review board members. Each member, or any alternate member participating on behalf of a regular member in that member's absence, shall receive one hundred dollars (\$100) per day for each day of attendance and participation in meetings of the review board.

##### **§8247.4. Function of board; Quorum.**

The review board shall function as an advisory body to the department regarding implementation of the provisions of this article. The review board shall act by a majority vote of the members present and voting. The review board shall not act unless there is a quorum of the voting members, including alternate members in the absence of their appointing members, and the director or his or her designee present.

##### **§8247.5. Membership of board exempt from Government Code prohibition.**

(a) The Legislature declares that individuals appointed as members of the review board shall be chosen from the commercial salmon fishing industry in order to represent and further the interest of the industry and commercial salmon fishing vessel owners, and this representation serves the general public interest.

(b) Each member of the review board is exempt from Section 87100 of the Government Code, unless the result of his or her actions taken as board members has a material financial effect on him or her distinguishable from its effect on other members of the commercial salmon fishing industry generally.

##### **§8247.6. Impartiality of board members.**

Members and alternate members of the review board shall act in the best interest of the state, the department, and the commercial salmon fishing industry. As members of the review board, no member or alternate member shall take any action, because of his or her position, that results in a direct material effect on any of them, distinguishable from its effect on other members of the commercial salmon fishing industry.

#### **§8247.7. Standards and criteria for activities of review board.**

The director may adopt standards and criteria by regulation that shall be applied by the review board in carrying out its activities under this article.

#### **§8247.8. Actions by board.**

The review board shall do all of the following:

- (a) Consider and make recommendations to the department on requests for permit transfers.
- (b) Recommend to the department, the number and classification of new vessel permits to be issued annually, if any, pursuant to Section 8243.
- (c) Consult with and advise the commission as required by Section 8246, 8246.2 and 8246.4.
- (d) Consult with the department and advise on the establishment of the vessel classification system pursuant to Section 8238.

#### **§8248. Severability of invalid provisions in article.**

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

### **FGC Excerpts**

#### **§8150.5. Taking for bait purposes; Limits; Records; Notice.**

- (a) Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.
- (b) This section does not prohibit the possession or use of sardines imported into this state under a bill of lading identifying the country of origin.
- (c) Imported sardines may be used for dead bait under regulations adopted by the commission.

#### **§8154. Possession for unauthorized purpose.**

No person shall receive, possess, or sell sardines for any purpose except for that purpose specified on the fish receipt completed at the time of landing of those sardines pursuant to Section 8043.

#### **§8870. Authorized use; Restrictions.**

Dip nets may be used subject to the following restrictions:

- (a) In districts 1, 1<sup>1/2</sup>, 2, 3, and 4, dip nets may not be baited, and may not measure more than six feet in greatest breadth.
- (b) In District 19, hand-held dip nets 30 feet or less in greatest breadth may be used. In that district dip nets may not be used within 750 feet of any pier, wharf, jetty, or breakwater, except to take anchovies, squids, and sardines for bait, and to take smelt.
- (c) In District 20, hand-held dip nets 30 feet or less in greatest breadth may be used.

### **SEA CUCUMBER**

Sea cucumber permit holders are also subject to the provisions of Title 14, §190.

### **FGC Excerpts**

#### **§8405. Permit requirements. (Only effective until April 1, 2005.)**

- (a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.
- (b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

#### **§8405.1. Eligibility for permit; Application; Fee; Appeal of denial. (Only effective until April 1, 2005.)**

- (a) To qualify for a sea cucumber permit for the permit year of April 1, 1997, to March 31, 1998, inclusive, an applicant shall have landed a minimum of 50 pounds of sea cucumbers during any calendar year, or portion thereof, from January 1, 1988, to June 30, 1991, inclusive.
- (b) All applications for sea cucumber permits shall be received by the department, or, if mailed, postmarked, by June 30, 1997.
- (c) The department shall not issue a sea cucumber permit until the applicant's eligibility pursuant to this section has been verified by the department through either landing receipts or other documentation used by the department.
- (d) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.
- (e) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).
- (f) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.
- (g) In order to renew a sea cucumber permit for any permit year commencing on or after April 1, 1998, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by June 30 of the permit year.

#### **§8405.2. Transfer of permit. (Only effective until April 1, 2005.)**

- (a) A sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.
- (b) A sea cucumber permit may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to any person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.
- (c) An application for transfer shall be submitted to the department, with such reasonable proof as the department may require to establish the qualifications of the permitholder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable transfer fee of two hundred dollars (\$200). The transfer shall take effect on the date notice of approval of the application is given to the transferee by the department.
- (d) A sea cucumber trawl permit may be transferred to any qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to any qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

#### **§8405.3. Protection of sea cucumbers; Number of permits; Revocation of permit; Costs of enforcement. (Only effective until April 1, 2005.)**

- (a) The commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.
- (b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or

transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.

(c) The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.

(d) Subsequent to the 1997-98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The commission, upon recommendation of the department, may adjust the fee for the issuance or transfer of a permit to an amount not to exceed three hundred fifty dollars (\$350), to reflect the actual cost of enforcing this article.

## SEA URCHIN

Sea urchin permit holders are also subject to the provisions of Title 14, §§123 and 190.

### Title 14 Excerpts

#### §120.7. Taking of Sea Urchins for Commercial Purposes.

##### (a) Permit Required.

(1) Any person taking or assisting in the taking of sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities. A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins, however, no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are being taken or possessed for commercial purposes, unless authorized by the department's marine region regional manager or his or her designee for the purposes of sea urchin management or research.

(2) To provide an economic incentive for cooperative sea urchin management and research activity, and notwithstanding any other portion of this section, the department may authorize the holder of a valid sea urchin diving permit to harvest (take, possess, land and/or sell) red sea urchins during a closed season or in a closed area, subject to such restrictions regarding date(s), location(s), time(s), size, poundage or other matters as specified by the department. Any data collected during such harvest activity shall be made available to the department. The form of this authorization shall be a letter from the department's marine region regional manager or his or her designee issued to the permittee and containing all conditions of use.

##### (b) Classes of Permits.

(1) Sea Urchin Diving Permit. Sea urchin diving permits will be issued to licensed commercial fishermen 16 years of age or older who have qualified for permits pursuant to subsection (c).

(2) Sea Urchin Crewmember Permit. Sea urchin crewmember permits will be issued to licensed commercial fishermen 16 years of age or older who do not qualify for sea urchin diving permits.

##### (c) Prior Permittees:

(1) Applicants for sea urchin diving permits must have held a valid, unrevoked sea urchin diving permit in the immediately preceding permit year (April 1-March 31).

(2) Applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than June 30 of each permit year. Each application must be accompanied by evidence that the qualification requirements specified in this subsection have been met. Applications received by the department or, if mailed, postmarked after June 30 and before August 1 will be assessed a \$50 late fee. Applications received by the department or, if mailed, postmarked after July 31 will not be considered.

##### (d) Number of Permits.

(1) All qualified prior sea urchin diving permittees shall be eligible to

receive diving permits regardless of the number issued.

(2) If the number of diving permits issued to prior permittees is more than 300, the total number of new sea urchin diving permits available for issuance shall be one-tenth the difference between the total number of sea urchin diving permits issued prior to August 1 of the current permit year and the total number of sea urchin permits issued during the immediately preceding permit year. If the number of diving permits issued to prior permittees is less than 300, the number of new sea urchin diving permits to be issued shall be the difference between the number of diving permits issued to prior permittees and 300. If the number of permits issued to prior permittees is 300, no new sea urchin diving permits shall be available.

##### (e) New Permittees:

(1) Applications for the issuance of any new sea urchin diving permits that may become available each year shall be received by the department or, if mailed, postmarked no later than June 30. Applications shall be submitted to the department's License and Revenue Branch, 3211 S Street, Sacramento, CA 95816. If any new sea urchin diving permits are available for issuance, as provided in subsection (d)(2), they shall be issued to licensed commercial fishermen who held, for each of the two immediately preceding permit years, a valid sea urchin crewmember permit.

(2) If there are more applicants for sea urchin diving permits than there are permits available, a drawing will be held to determine which applicants will be eligible to purchase permits. Any person who submits more than one application for a new sea urchin diving permit in any one permit year will be excluded from the drawing. Each applicant who meets the criteria in subsection (e)(1) shall be entered into the drawing once. In addition, each applicant shall be entered into the drawing one more time for each additional year, above the minimum required two years, that the applicant possessed a valid sea urchin crewmember permit. No applicant shall be entered more than five times for each drawing. The drawing will be held on the third Wednesday in August each year. Permits will be issued to successful applicants in the order drawn. Payment of the fee for the sea urchin diving permit must be received at the department's License and Revenue Branch, 3211 S Street, Sacramento, CA 95816 on or before September 25.

(f) Fee. The fee for sea urchin crewmember permits shall be the amount authorized by Section 699 of these regulations.

(g) Appeal. Any applicant who is denied a sea urchin diving permit for any reason may appeal the denial to the department in writing, describing the basis for the appeal. The appeal must be received by the department not later than March 31 following the permit year in which the appellant last held a valid sea urchin diving permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(h) Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

##### (i) Conditions of the Permit:

(1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.

(2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life except sea urchins, shall be removed from the bottom or otherwise disturbed.

(j) Revocation of Permits. Any permit may be suspended, revoked, or canceled by the commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

(k) Exemption from Tidal Invertebrate Permit. A sea urchin diver or



sea urchin crewmember operating under the provisions of this section is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of section 123, Title 14, CCR.

(l) Fishing Season.

(1) From November 1 through March 31 the open season for red sea urchins is seven days per week.

(2) In April, May, September and October the open season for red sea urchins is Monday, Tuesday, Wednesday and Thursday.

(3) In June and August the open season for red sea urchins is Monday, Tuesday, and Wednesday.

(4) In July the season for red sea urchins is Monday and Tuesday.

(5) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.

(m) Logbooks. Any person who operates a vessel used for the commercial harvest of sea urchins shall prepare a daily record of the vessel's sea urchin fishing activities on a form (DFG-120.7 (5/99)), incorporated herein by reference, provided by the department before the sea urchins are landed. The completed daily records shall be sent to the Fort Bragg office of the Department of Fish and Game for fishing activities north of the Monterey-San Luis Obispo county line, and to the Los Alamitos, office for fishing activities south of the Monterey-San Luis Obispo county line on or before the tenth day of each month following the month to which the records pertain.

(n) Closed Areas.

(1) The Gerstle Cove area in Salt Point State Park (Sonoma County) is closed to all commercial fishing for sea urchins. This area is delimited as all the ocean waters east of a line extending 180° true from the southernmost point (lat. 38° 33.92', N. long. 123° 19.89'W) of Salt Point and north of a line extending 270° true from the westernmost point of land (lat. 38° 33.6' N, long. 38° 33.66 N, long. 123° 19.37'W) of the unnamed point at the southern end of Gerstle Cove.

(2) The South Caspar Point area in Mendocino County is closed to all commercial fishing for sea urchins. This area is bounded on the north by a line extending 90° magnetic from sea to the mouth of Caspar Creek (north bank) in Caspar Cove, on the south by the northern boundary of the Point Cabrillo Marine Reserve and its westward extension to the 120-foot depth contour, on the west by 120-foot depth contour line connecting the north and south boundary lines, and on the East by the mainland shore. The Point Cabrillo Marine Reserve remains closed to the take of all forms of marine life.

(o) Size Limit.

(1) In southern California (south of the Monterey-San Luis Obispo county line) no red sea urchin between one and one-half (1 1/2) and three and one-quarter (3 1/4) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, may be taken, possessed, sold, or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.

(2) In northern California (north of the Monterey-San Luis Obispo county line) no red sea urchin between one and one-half (1 1/2) and three and one-half (3 1/2) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, may be taken, possessed, sold or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.

(3) Red sea urchins less than one and one-half (1 1/2) inches in shell diameter shall not be considered as part of the thirty (30) undersized red sea urchins per permittee per load that may be taken, possessed, sold or purchased.

(4) Every sea urchin permittee shall carry and use an accurate measuring device, to determine the size of red sea urchins being taken as specified in subsections (p)(1) and (p)(2) above, while diving for sea urchins for commercial purposes.

(p) Authorization of an Assistant for a Sea Urchin Diver Permittee.

(1) Authorization by Department. The holder of a sea urchin diving

permit, who, after entering the sea urchin fishery, becomes, due to a severe unforeseen or catastrophic long-term (expected to be for one year or longer) or permanent injury or disease, physically unable to dive, may designate a specific individual as an assistant, upon written approval from the department. The department may authorize, in writing, any one specific individual to be designated by the permittee as an assistant, providing the following conditions have been met:

(A) The permittee provides documentation from a qualified physician that the permittee suffers from the disease or injury and it will prevent the permittee from diving. Such conditions shall not include short or long-term common illnesses, conditions caused or primarily exacerbated by aging, or any other condition which appears to be marginal or common, such as routine back or neck problems;

(B) The permittee has no violations or pending violations for which his or her permit could be revoked;

(C) The proposed assistant has a current California commercial fishing license and has not had any California commercial fishing license or permit suspended or revoked; has never been convicted, and no charges are pending for a violation of any provision of the Fish and Game Code or Title 14, California Code of Regulations.

(2) Special Provisions:

(A) The authorized sea urchin diver assistant may take or assist in the taking of sea urchin only when in the company of the permittee.

(B) The permittee shall have no authority to, and shall not dive for sea urchin while a valid letter authorizing the permittee to designate an assistant exists, regardless of whether or not the assistant is actively diving.

(C) The authorized sea urchin diver assistant shall have no right to ownership or transfer of the permit beyond that which is otherwise provided by law.

(D) The sea urchin diving permit, in addition to the sea urchin diver assistant authority shall be subject to revocation, suspension or other actions provided in law or regulation, upon violations committed by the assistant, when acting under the authority of a sea urchin diver assistant. The assistant shall take no actions authorized pursuant to a sea urchin diver permit without the consent of the permittee.

(E) The department shall review the authority authorized pursuant to this section at least once every year and may withdraw the authority if any of the conditions are not met.

(3) Fee Requirement. Any person authorized as an assistant pursuant to this subsection shall annually pay a fee to the department equal to the amount required of permittees pursuant to Fish and Game Code Section 9055.

(4) Required Possession of Department Authorization. The assistant shall carry the department's letter of authority whenever conducting activities authorized pursuant to the subsection.

(5) The department shall report to the commission within 18 months of the enactment of these provisions on the merits of the program. The department shall make a recommendation to the commission to either continue or discontinue the program, based on achievements and problems associated with the administration of these provisions.

## FGC Excerpts

### **§9054. Rakes, Airlifts, etc. for Taking Sea Urchins; Permits.**

Sea urchins shall not be taken for commercial purposes except under a valid sea urchin diving permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission. Rakes, airlifts, or other handheld appliances may be used to take sea urchins. The commission may, whenever necessary to prevent overutilization or to ensure efficient and economic operation of the fishery, limit the number of permits that may be issued. The commission, as it determines appropriate to protect the resource, may limit the number of permits either on a statewide basis or within selected geographical areas.



### **§9055. Sea urchin permit fee.**

The fee for a sea urchin permit issued authorized pursuant to Section 9054 is three hundred thirty dollars (\$330)

## **SPOT PRAWN TRAPPING**

Spot prawn trap vessel permit holders are subject to the provisions of Title 14, §§180, 180.1, 180.2, 180.3, 180.4, and 180.5.

### **Title 14 Excerpts**

#### **§180.3 Restricted Access Fishery.**

(a) Control Date. A control date of January 1, 1999 is established for the purpose of developing a restricted access prawn trap fishery. Only those vessels which have made at least one prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery.

(b) Qualifications of Permittee. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general trap permit, pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked. A spot prawn trap vessel permit shall be issued only to the following persons for use on qualifying vessels:

(1) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns from that vessel utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum landing requirements using that vessel:

(A) At least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) At least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(C) At least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(D) Spot prawn trap vessel permits issued pursuant to subdivision (b)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the maximum number of traps pursuant to Section 180.1, Title 14.

(2) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns from that vessel utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subdivision (b)(1) and has satisfied at least one of the following minimum landing requirements using that vessel:

(A) At least 10 landings of spot prawns, utilizing traps, in calendar year 1998;

(B) At least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(C) Spot prawn trap vessel permits issued pursuant to subdivision (b)(2) shall be considered as Tier 2 permits. Permitted vessels with Tier 2 permits are limited to fishing a maximum of 150 spot prawn traps at any one time and may not exceed a maximum of 2,500 pounds of spot prawns landed in any permit year.

(3) Any individual who is the current owner of a commercial fishing vessel, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds, as documented by landing receipts that were delivered to the

department pursuant to Section 8046 of the Fish and Game Code, in one of those years, may be issued a Tier 2 permit.

(c) Capacity Goal. The commission has determined that the spot prawn trap fishery capacity goal for Tier 1 permits shall be 17. The commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(1) If the number of permits in Tier 1 is greater than 17 when this restricted access program is implemented, the following provisions will be in effect: An individual would be allowed one Tier 1 permit only if the individual purchases two existing Tier 1 permits. A total of 500 traps would be allowed for the Tier 1 permit. If the purchaser is an existing Tier 2 permittee, the Tier 2 permit would be retired. A permit holder of multiple Tier 1 permits must have all Tier 1 permits on the permit holder's vessel.

(2) If the number of permits in Tier 1 falls below 17, the following provisions will be in effect:

(A) The individual with an active Tier 2 permit and with the greatest amount of spot prawn landings, using traps, among active Tier 2 permit holders for the 5 year period June 1, 1996 to May 31, 2001 would be awarded the first available Tier 1 permit.

(B) The individual with an active Tier 2 permit and with the second greatest amount of spot prawn landings, using traps, among active Tier 2 permit holders would be awarded the next available Tier 1 permit, and so on until all Tier 2 permits are retired. After this time, when only Tier 1 permits exist, transfers will only be permitted on a one to one basis so as not to further reduce the number of permits.

(d) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permit.

All applications and permit fees for initial issuance of spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(e) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit

(f) Annual Spot Prawn Trap Vessel Permit Renewal. Applications for renewal of a spot prawn trap vessel permit shall be received by the department, or, if mailed, postmarked, by April 30 of each year. Applications for a spot prawn trap vessel permit received from May 1 to May 31 will be assessed a late fee. Spot prawn trap vessel permit renewals received after May 31, or if mailed, postmarked after May 31, shall become expired, shall be returned unissued to the applicant, and shall no longer be eligible for renewal in subsequent years.

(g) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the department in writing with a letter sent to Department of Fish and Game, Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940.

(h) Appeal for Reinstatement of an Expired Spot Prawn Trap Vessel Permit. The department may reissue a spot prawn trap vessel permit that has not been applied for by the application deadline if the department finds that the failure to renew the permit prior to the expiration date was due to death of the permittee or immediate family member; physical illness, or other hardship. The appeal for reinstatement of an expired spot prawn trap vessel permit shall be received by the department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.

(i) Revocation of Permit. A spot prawn trap vessel permit shall be revoked if the permittee fails to:

(1) renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code; or

(2) submits false information for the purposes of obtaining a spot

prawn trap vessel permit.

(j) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel. A transfer of a spot prawn trap vessel permit may be approved for use on a replacement vessel only if all of the following criteria are met:

(1) The vessel owner submits a written request for transfer to the department on a form provided by the department and pays a non refundable transfer fee.

(2) Under penalty of perjury the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her judgement.

(3) The spot prawn trap vessel permit has not been previously transferred in the previous 12 months unless the vessel was lost, stolen, or destroyed within the previous 12 months.

(4) The spot prawn trap vessel permit for the permitted vessel is current, and the owner of the permitted vessel renewed the permit which becomes due during the application processing period prior to the expiration of the permit.

(5) The permitted vessel owner has written authority from the legal owner and/or partners, or mortgager, of the vessel, to which the permit shall be transferred, to transfer the spot prawn trap vessel permit from the permitted vessel.

(k) Change of Ownership of a Spot Prawn Trap Vessel Permit.

(1) Tier 2 spot prawn trap vessel permits shall not be transferrable to another individual.

(2) All Tier 1 spot prawn trap vessel permits shall be transferrable to another individual, but not more than once within any 3 year period, and not before April 1, 2005. A change of ownership of a spot prawn trap vessel permit may be approved only if the vessel owner submits a written request for change of ownership to the department on a form provided by the department and pays a non refundable change of ownership fee. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:

(A) The person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked,

(B) The person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.

(3) Notwithstanding subsection (2), on the death of a spot prawn trap vessel Tier 1 permittee an heir may apply to the department to transfer that permit to him or her. The application for transfer shall be received by the department within one year of the death of the permittee.

(l) Appeals.

(1) Any applicant who is denied initial issuance of a spot prawn trap vessel permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision

(2) Any applicant who is denied renewal of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(4) In the above cases, the commission may order the department to issue or transfer the permit upon appeal if the commission finds that the appellant qualified for a permit under the restrictions of the restricted access program.

(m) Fees.

(1) The department shall charge an annual fee for each spot prawn trap vessel permit of two hundred fifty dollars (\$250.00).

(2) The department shall charge a non refundable fee of two hundred dollars (\$200.00) for each vessel transfer.

(3) The department shall charge a non refundable fee of fifty dollars (\$50.00) for each change of ownership of the spot prawn trap vessel permit.

(4) The department shall charge a non refundable late fee of fifty dollars (\$50.00) if an application for initial issuance of a spot prawn trap vessel permit is received from July 1 to July 31, 2002.

(5) The department shall charge a non refundable late fee of fifty dollars (\$50.00) if an application for renewal of a spot prawn trap vessel permit is received from May 1 to May 31.

## SQUID

The Department and the Commission are considering regulations that would establish catch limitations and a restricted access program to protect the squid resource and manage the squid fishery at a sustainable level. For more information, visit [www.dfg.ca.gov/mrd/marketsquid/index.html](http://www.dfg.ca.gov/mrd/marketsquid/index.html).

## Title 14 Excerpts

Squid vessel permit holders are also subject to the provisions of Title 14, §190.

### §149. Commercial Taking of Market Squid.

a) Fishing days. North of a westerly extension of the United States-Republic of Mexico boundary line, market squid may not be taken for commercial purposes between 1200 hours (noon) on Friday and 1200 hours (noon) on Sunday of each week. This regulation applies to vessels catching squid or attracting squid with lights for the purpose of catching. This regulation does not apply to vessels pursuing squid for live-bait purposes only.

(b) Records. Pursuant to Section 190 of these regulations, any person who possesses a valid market squid vessel permit or squid light boat owners permit shall complete and submit an accurate record of his/her squid fishing/lighting activities on a form (Market Squid Vessel Logbook - DFG 149a (4/99), or Market Squid Light Boat Logbook - DFG 149b (4/99), which are incorporated by reference herein) provided by the department, as appropriate to the type of fishing activity.

(c) Maximum Wattage. Each vessel fishing for squid or lighting for squid will utilize a total of no more than 30,000 watts of lights to attract squid at any time.

(d) Light Shields. Each vessel fishing for squid or lighting for squid will reduce the light scatter of its fishing operations by shielding the entire filament of each light used to attract squid and orienting the illumination directly downward, or providing for the illumination to be completely below the surface of the water.

(e) Seasonal Harvest Guideline. For the period from April 1 through March 31 of the following year, a total of not more than 125,000 short tons of market squid may be taken by vessels permitted under Section 8421 of the Fish and Game Code, with the fishery closure implemented as follows:

(1) The department shall estimate, from the current trend in landings, when the market squid harvest guideline will be reached, and will publicly announce the effective date of closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the harvest guideline is expected to be reached and the fishery closed.

Any announcement issued or made by the department on VHF/channel 16 shall constitute official notice.

(2) Whenever the market squid harvest guideline has been reached, market squid may be taken for commercial purposes until April 1 only pursuant to Section 8421(b) of the Fish and Game Code.

## **FGC Excerpts**

### **§8399.1. Illegal activities relating to the taking of squid in District 10.**

(a) In District 10, it is unlawful to engage in the following activities:

(1) Attract squid by a light displayed from any vessel, except a vessel deploying nets for the take, possession, and landing of squid or from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.

(2) Attract squid by a light displayed from any vessel whose primary purpose is not the deployment, or assisting in the deployment, of nets for the take, possession, and landing of squid.

(3) To encircle any vessel, other than by the seine skiff of a vessel deploying nets for the take, possession, and landing of squid, while that vessel is engaged in the taking of squid.

(b) For purposes of this section, "seine skiff" means a vessel that is not licensed by the federal government or registered by the Department of Motor Vehicles, that is used to assist a larger federally-licensed or state-registered fishing vessel by assisting in the deployment and retrieval of nets and the landing of fish, and that travels with that larger fishing vessel at all times, that is used solely at the direction of the operator of the larger fishing vessel, and that is owned by the owner of the larger fishing vessel.

### **§8420.5. Taking of squid north of Point Conception.**

North of a line extending due west magnetic from Point Conception, market squid may be taken for commercial purposes only between noon on Sunday and noon on Friday of each week.

### **§8421. Use of Vessel or Dip Nets Prohibited; Commercial Permit.**

(a) On or after April 1, 1998, no person shall use a vessel to take or land market squid with dip nets (commonly referred to as scoop nets), purse seine nets, or lampara nets for commercial purposes unless the owner of that vessel has been issued a commercial market squid vessel permit by the department that has not been suspended or revoked.

(b) A commercial market squid vessel permit shall be issued only for vessels employing dip, purse seine, or lampara nets for the taking of market squid for commercial purposes. No permit is required for any vessel taking or landing market squid for commercial purposes if the amount taken by the vessel does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only. No other nets shall be used for the taking of market squid from a vessel for commercial purposes. Furthermore, it is unlawful to possess in excess of two tons of incidentally taken squid per trip.

(c) A commercial market squid vessel permit shall be issued to a person only if that person is the owner of record of the commercial fishing vessel for which the permit is issued and the vessel is registered with the department pursuant to Section 7881.

(d) A commercial market squid vessel permit shall be issued only to the person who owns the vessel at the time of application for that permit. For purposes of this subdivision, an owner includes any person who has a lease-purchase agreement for the purchase of a vessel.

(e) No person who is issued a commercial market squid vessel permit shall sell, trade, or transfer the permit to another person.

(f) A commercial market squid vessel permit shall be issued annually, commencing with the permit for the 1998-99 permit year.

(g) A violation of this section does not constitute a misdemeanor; however, pursuant to Section 7857, the commission may revoke or suspend the commercial market squid vessel permit or commercial fishing license held by any person who violates this section.

(h) Squid landed in excess of the limit specified in subdivision (b) of Section 8421 without a permit shall be forfeited to the department by the signing of an official release of property form. The squid shall be sold or disposed of in a manner to be determined by the department. The

proceeds from all sales shall be paid into the Fish and Game Preservation Fund.

### **§8421.5. Designated Operator - Permit Issued to Partnership or Corporation.**

If a commercial market squid vessel permit is issued for a vessel that is owned by a bona fide partnership or corporation, that partnership or corporation shall designate the individual who is the operator and shall provide that information to the department annually at the time of issuing the permit. If there is a dissolution of the partnership or the corporation, the partnership or corporation shall notify the department of the name of the partner or shareholder who is the successor permit holder and the department shall reissue the permit to that partner or shareholder.

### **§8422. Fee for Commercial Market Squid Vessel Permit; Applications.**

(a) The fee for a commercial market squid vessel permit shall be four hundred dollars (\$400).

(b) All applications for a commercial market squid vessel permit for the 1998-99 permit year shall be received by the department on or before April 30, 1998, or, if mailed, shall be postmarked by April 30, 1998. In order to renew a permit, an applicant shall have been issued a commercial market squid vessel permit in the immediately preceding year. Applications for renewal of the permit shall be received by the department on or before April 30 of each year, or, if mailed, shall be postmarked by April 30 of each year.

(c) Notwithstanding Section 7852.2, a penalty of two hundred fifty dollars (\$250) shall be paid in addition to the fee required under subdivision (a) for applications that do not meet the deadline specified in subdivision (b) but that are received by the department on or before May 31 of any year.

(d) The department shall deny all applications received after May 31 of each year, and the application shall be returned to the applicant who may appeal the denial to the commission. If the commission issues a permit following an appeal, it shall assess the late penalty prescribed by subdivision (c).

### **§8423. Operation of Light Boat - Permit Required.**

(a) No person shall operate a squid light boat unless the owner of the boat has been issued a commercial squid light boat owner's permit by the department and a permit number is affixed to the boat in the manner prescribed by the department.

(b) The department shall issue a commercial squid light boat owner's permit to a person who submits an application, pays the permit fee, and meets the other requirements of this section.

(c) The department may regulate the use of squid light boats consistent with the regulations established for commercial squid vessels.

(d) For the 2004-2005 permit year, the fee for a commercial squid light boat owner's permit is four hundred dollars (\$400).

(e) It is unlawful for a person to engage in the following activities, unless the vessel used for the activity has been issued a commercial market squid vessel permit or the person holds a commercial squid light boat owner's permit:

(1) Attracting squid by light displayed from a vessel, except from a vessel deploying nets for the take, possession, and landing of squid or except from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.

(2) Attracting squid by light displayed from a vessel whose primary purpose is other than the deployment, or assistance in the deployment, of nets for the take, possession, and landing of squid.

(f) A commercial squid light boat owner's permit shall be issued to a person who is the owner of record of a vessel that is registered with the department pursuant to Section 7881. For purposes of this subdivision, an owner includes any person who has a lease-purchase agreement for the purchase of a vessel.

(g) No person who is issued a commercial squid light boat owner's permit shall sell, trade, or transfer the permit to another person.



#### **§8423.5. Application Deadline; Penalties.**

(a) All applications for a commercial squid light boat owner's permit for the 1998 permit year shall be received by the department on or before April 30, 1998, or, if mailed, shall be postmarked by April 30, 1998. In order to renew a permit, an applicant shall have been issued a commercial squid light boat owner's permit in the immediately preceding year. Applications for renewal of the permit shall be received by the department on or before April 30 of each year, or, if mailed, shall be postmarked by April 30 of each year.

(b) Notwithstanding Section 7852.2, a penalty of two hundred fifty dollars (\$250) shall be paid in addition to the fee required under subdivision (a) for applications that do not meet the deadline specified in subdivision (b) but that are received by the department on or before May 31 of any year.

(c) The department shall deny all applications received after May 31 of each year, and the application shall be returned to the applicant who may appeal the denial to the commission. If the commission issues a license following an appeal, it shall assess the late penalty prescribed by subdivision (b).

#### **§8424. Purchase of Squid; Weighmaster Required.**

(a) No person shall purchase squid from a vessel or vessels unless that person holds a license issued pursuant to Section 8032 or 8033, employs a certified weighmaster, and the facilities operated by the person are located on a permanent, fixed location.

(b) Notwithstanding any other provision of law, this section shall not apply to the transfer at sea of squid for live bait in an amount less than 200 pounds in a calendar day.

#### **§8425. Annual Hearings; Commission to Adopt Regulations.**

The Department and the Commission are in the process of adopting a market squid fishery management plan and regulations to protect the squid resource and manage the squid fishery at a level that sustains healthy squid populations. A moratorium on new market squid vessel and light boat permits has been in place since 1998. For more information, visit [www.dfg.ca.gov/mrd/marketsquid/index.html](http://www.dfg.ca.gov/mrd/marketsquid/index.html).

(a) On or before December 31, 2002, the commission, after consideration of the report and recommendations prepared by the department pursuant to subdivision (c) of Section 8426, and, after public hearings, shall adopt a market squid fishery management plan and regulations to protect the squid resource and manage the squid fishery at a level that sustains healthy squid populations, taking into account the level of fishing effort and ecological factors, including, but not limited to, the species' role in the marine ecosystem and oceanic conditions. The management plan shall be consistent with the requirements of Part 1.7 (commencing with Section 7050). Development of the plan shall be coordinated with the federal Coastal Pelagic Species Fishery Management Plan.

(b) On and after January 1, 2002, the commission shall manage the squid fishery in accordance with the requirements of Part 1.7 (commencing with Section 7050).

#### **§8427. Transfer of permits.**

(a) A commercial market squid vessel permit issued pursuant to Section 8422 or a commercial squid light boat owner's permit issued pursuant to Section 8423 may be transferred to another vessel owned by the permitholder, if the vessel is of comparable capacity as determined by United States Coast Guard documentation papers, and only if the permitted vessel was lost, stolen, destroyed, or suffered a major mechanical breakdown.

(b) The department shall not issue a permit for a replacement vessel if the permitted vessel was reported as lost, stolen, destroyed, or damaged for fraudulent purposes.

(c) Only the permitholder at the time of the loss, theft, destruction, or mechanical breakdown of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard

or any other law enforcement agency or fire department investigating the loss.

(d) The vessel owner shall submit an application for the transfer to the department on a form provided by the department and shall pay a nonrefundable transfer fee of two hundred fifty dollars (\$250) for each transfer of a market squid vessel permit or a commercial squid light boat owner's permit.

(e) The permit for the permitted vessel shall be current, and the owner of the permitted vessel shall make assurances in the transfer application that any renewal of the permit which becomes due during the application processing period will be made.

(f) The owner of the permitted vessel shall submit evidence with the transfer application sufficient to establish that he or she is the owner of the permitted vessel and the owner of the replacement vessel at the time of the application for transfer.

(g) The vessel owner shall sign the transfer application under penalty of perjury and shall certify that the information included in the application is true to the best of his or her knowledge and belief.

#### **§8428. Limit on expenditure of funds collected.**

Commencing April 1, 2004, and annually thereafter, the fees for a commercial market squid vessel permit and for a commercial squid light boat owner's permit shall be established by the commission. The total amount of fees collected pursuant to this section, including any revenue derived from any other appropriate source, as determined and allocated by the commission, shall not exceed the department's and the commission's costs for managing the market squid fishery pursuant to Section 8425. The fees collected pursuant to this article shall be used only for the management of the market squid fishery pursuant to Section 8425.

#### **§8429. Statements to be made under penalty of perjury.**

Any statement made to the department, orally or in writing, relating to a permit issued under this article, shall be made under penalty of perjury. The commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any licenses issued pursuant to Section 8032, 8033, or 8034 that are held by any person submitting material false statements, as determined by the commission, for the purpose of obtaining a commercial market squid vessel permit or a commercial light boat owner's permit.

#### **§8429.5. Authority of director.**

Notwithstanding any other provision of law, nothing in this article shall prohibit or otherwise limit the authority of the director or the commission under any other law.

#### **§8429.7. Sections become inoperative upon adoption of Market Squid Fishery Management Plan and Regulations.**

Sections 8420.5 to 8423.5, inclusive, and Sections 8426 and 8427 shall become inoperative upon the adoption by the commission of a market squid fishery management plan and the adoption of implementing regulations pursuant to Section 8425, and are repealed six months thereafter.

#### **SWORDFISH**

Swordfish permit holders are subject to the provisions of Title 14, §190.

#### **Title 14 Excerpts**

#### **§107. Broadbill Swordfish.**

(a) Permit Required.

(1) The owner or operator of a vessel taking broadbill swordfish for commercial purposes shall have obtained a valid swordfish permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue a permit to the owner or operator of a currently registered vessel. The applicant, if the holder of

an expired swordfish permit, shall have complied with subsection 107(e) dealing with records during the preceding year, or during the last year such applicant held a permit, in order to be eligible for a permit.

(b) Limitations of Permit. Not more than one permit shall be issued to any operator. Permits shall not be assigned or transferred from person to person unless so authorized by the department.

(c) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(d) Vessel Identification. Permittees vessel shall display its assigned permit number in 10" high x 2" wide black Roman alphabet letters and Arabic numerals. Figures shall be black on a white background on both sides of the superstructure of the vessel. Numbers shall be displayed at all times while operating under a swordfish permit.

(e) Records. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of all swordfishing activities on a form (Swordfish Harpoon Log, DFG 107 (10/89)) provided by the department.

(f) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(g) Cost of Permit. See Section 8394.5 of the Fish and Game Code.

(h) Methods of Take.

(1) Swordfish may be taken only with hand-held hook and line or handthrust harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit.

Only aircraft with current FAA registration which are registered with the department pursuant to Section 7881, Fish and Game Code, and aircraft pilots licensed pursuant to Section 7850, Fish and Game Code, may conduct flights for permittees. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

(i) Notification Procedure. The department shall notify permittees if the director, pursuant to section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The department shall notify permittees by certified mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

(j) Revocation of Permits. Any permit may be revoked and canceled by the commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

#### **§107.1. Possession of Gill Nets by Swordfish Permittees.**

(a) Except as provided in subsection (b), any person operating under the authority of a swordfish permit as specified in Section 107 of these regulations may not possess a gill net aboard a swordfish permit vessel, except that set gill nets may be possessed, provided that the intent to use such gear has been declared on the application for a swordfish permit.

(b) Drift gill nets may be possessed onboard a swordfish permit vessel and used by a swordfish permittee who also possesses a valid permit which authorizes the use of a drift gill net to take swordfish.

#### **FGC Excerpts**

##### **§8394. Swordfish permit.**

Swordfish shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid swordfish permit. At least one person aboard the boat shall have a swordfish permit issued

to that person that has not been revoked or suspended, subject to regulations adopted by the commission.

##### **§8394.5. Swordfish permit fee.**

The fee for the permit issued pursuant to Section 8394 is three hundred thirty dollars (\$330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2.

#### **TIDAL INVERTEBRATE**

Sea urchin permit holders are also subject to the provisions of Title 14, §123.

#### **Title 14 Excerpts**

##### **§123. Tidal Invertebrates.**

To take mollusks, crustaceans, or other invertebrates for commercial purposes in any tide pool or tidal area, including tide flats or other areas between the high tide mark and 1,000 feet beyond the low tide mark, revocable permits may be issued by the department in accordance with the following regulations:

(a) Qualifications of Permittee. The applicant must be a licensed commercial fisherman. If a vessel is used in taking or transporting tidal invertebrates for commercial purposes, the vessel must be currently registered and all fishermen on the vessel must possess a permit.

(b) Limitation of Permit. Not more than one permit shall be issued to any one person. Permits shall not be assigned or transferred from person to person.

(c) Duration of Permit. Any permit issued pursuant to these regulations shall be in force from April 1 to March 31 of the following year, or, if issued after the beginning of such term for the remainder thereof.

(d) Permit Exemption. Commercial fishermen taking only lobster, abalone, sea cucumber, crab or sea urchin need not possess the permit as required in this section but must have the appropriate permits to take such species as required by Fish and Game Code Sections 8254, 8306.8, 8396, 9001, and 9054, and regulations adopted pursuant thereto.

(e) Provisions of this section do not apply to commercial fishermen taking freshwater clams or crayfish in inland waters.

(f) Permit Conditions.

(1) Under the terms of a permit issued pursuant to this section only the following invertebrates may be taken for commercial purposes: barnacles, chiones, clams, cockles, sand crabs, limpets, mussels, sand dollars, octopuses, shrimp, sea cucumbers, sea urchins, sea hares, starfish, worms, squid and native oysters.

(2) No mollusks, crustaceans or other invertebrates may be taken in:

(A) Marine Life Refuges: except the James V. Fitzgerald Marine Reserve pursuant to subsection 8305.5(b), Fish and Game Code.

(B) Reserves: Point Cabrillo Reserve, Gerstle Cove Reserve, Point Reyes Headlands Reserve, Estero de Limantour Reserve, Robert W. Crown Reserve, Pismo Invertebrate Reserve, Lovers Cove Reserve, Point Loma Reserve.

(C) Ecological Reserves: Del Mar Landing Ecological Reserve, Corte Madera Marsh Ecological Reserve, Carmel Bay Ecological Reserve, Point Lobos Ecological Reserve, Abalone Cove Ecological Reserve, Bolsa Chica Ecological Reserve, Heisler Park Ecological Reserve, San Diego-La Jolla Ecological Reserve.

(3) In Farnsworth Bank Ecological Reserve all invertebrates may be harvested except purple coral.

(4) In and offshore of all other state ecological reserves, state parks, state reserves, national parks, national monuments, or national seashores, only the following invertebrates may be taken: crabs, ghost shrimp, jackknife clams, sea urchins, squid, and worms, except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, remove or destroy any rocks or other substrate or surfaces to which organisms are attached.

## FGC Excerpts

### §8500. Commercial taking restrictions.

Except as otherwise expressly permitted in this chapter, no mollusks, crustaceans, or other in-vertebrates may be taken, possessed aboard a boat, or landed for commercial purposes by any person in any tide pool or tidal area, including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, unless a valid tidal invertebrate permit has been issued to that person that has not been suspended or revoked. The taking, possessing, or landing of mollusks, crustaceans, or other invertebrates pursuant to this section shall be subject to regulations adopted by the commission.

**PROHIBITED SPECIES:** Listed on page 3 are species that must not be taken in California waters for commercial purposes, or be possessed unless otherwise authorized.

## TRAP PERMIT

Dungeness crab vessel permit holders are also subject to the provisions of Title 14, §§180.2 and 180.5, FGC §§9002 through 9012. Lobster operator permit holders are also subject to the provisions of Title 14, §180.2, and FGC §§9002, 9003, 9004, and 9006. Spot prawn vessel permit holders are also subject to the provisions of Title 14, §§180 and 180.1.

## Title 14 Excerpts

### §180. Traps.

Revocable, nontransferable permits to use traps for commercial purposes may be issued by the Department to take fish, mollusks and crustaceans except market crabs (*Cancer magister*) and lobster under the following conditions:

(a) Permits will include conditions under which traps shall be used to take fish, mollusks or crustaceans. No person shall use any trap except as authorized in a permit. The taking of spot prawns shall be subject to the conditions of this section and section 180.1.

(b) Every person who takes or assists in taking fish, mollusks, or crustaceans with any trap or who possesses or transports fish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is aboard, shall have in his possession a valid permit issued to him pursuant to this section while engaged in any such activity.

(c) The Department may inspect the traps at any time.

(d) Records. Pursuant to section 190 of these regulations, each permittee may be required by the Department to complete and submit an accurate log of the fishing operations on a form (Daily Trap Log, DFG 180A (10/89) or Daily Sablefish Trap Log, DFG 180B (10/89) provided by the Department. The Department's intent regarding a fishing log shall be declared by an affirmative or negative statement in the text of any trap permit issued.

(e) Traps must be marked by buoys as specified by the Department.

(f) All traps must have at least one destruct device of a type authorized by the Department.

(g) The permit may be suspended temporarily by the Director for a breach or violation of the terms of the permit by the holder thereof, or any member of his crew on the designated vessel. In addition, the permit may be temporarily suspended or denied by the Director if he determines that the trap or its operation is detrimental to any of the ocean's living marine resources. The Commission shall be notified of any such suspension, and subsequently may revoke or reinstate the permit or fix the period of its suspension after written notice to the permittee and after he has been afforded an opportunity to be heard. In the event a permit is denied by the Director the applicant may apply to the Commission for an experimental gear permit under Section 8606 of the Fish and Game Code.

(h) The permit number of the boat operator shall be displayed on both sides of the boat in ten-inch black numbers on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the numbers.

(i) Cost of Permit. The fee for this permit shall be the amount specified in Section 9001, Fish and Game Code.

See notice on page 1 about Restricted Access Programs for California's prawn fisheries.

### §180.1 Spot Prawn, *Pandalus platyceros*, Fishing

Spot prawns may only be taken by trawl nets for commercial purposes pursuant to sections 120 and 120.3 of these regulations, or by traps, pursuant to sections 180, 180.2, 180.5 and this section.

(a) No trap may be used to take spot prawns from November 1 through January 31, between a line drawn due west from Point Arguello, Santa Barbara County, and the United States-Mexico boundary. No trap may be used to take spot prawns from May 1 through July 31 (for the year 2000 May 3 through July 31) between a line drawn due west from Point Arguello, Santa Barbara County, and the California-Oregon boundary.

(1) Spot prawn traps may be set and baited no earlier than 0600 hours (6:00 a.m.) on January 31.

(2) All traps must be removed from the water prior to November 1, weather and sea conditions permitting. In the event that a permittee is unable to comply with this subdivision, then that person must notify the nearest department office via telephone or FAX and certified mail not later than 1600 hours (4:00 p.m.) on November 1, stating the reason for the delay and the anticipated date of trap removal. Notification does not relieve the permittee of responsibility for complying with this subdivision unless approved by the department.

(3) All spot prawns taken in any trap during the closed season shall be immediately returned to the water and no spot prawn may be possessed aboard, or landed from, any vessel operating under authority of a spot prawn trap permit in any area during the closed season in that area.

(b) All spot prawn traps shall be made of plastic or wire mesh with a minimum inside measurement of  $\frac{7}{8}$  inch by  $\frac{7}{8}$  inch, such that a  $\frac{7}{8}$  inch square peg passes through the mesh without stretching the mesh. (Note: Fathom Plus Traps may be used to take spot prawns.)

(c) Not more than 500 traps may be used from any vessel to take spot prawns except that not more than 300 traps may be used from any vessel to take spot prawns within three miles of the mainland shore between a line drawn due west from Point Arguello, Santa Barbara County, and the California-Oregon boundary.

(d) Each string of spot prawn traps shall be marked with a buoy bearing the commercial fishing license number issued to the owner or operator of the vessel.

### §180.2. Trap Destruction Devices.

Pursuant to the provisions of Section 9003 of the Fish and Game Code, every trap used to take fin fish, mollusks or crustaceans shall contain at least one destruction device listed in subsections (a), (b) and (c) below. The use of any structures or materials that defeat the purpose of the destruct device is prohibited.

(a) Each department approved destruct device shall create an unobstructed escape opening in the top or upper half of the trap of at least 5 inches in diameter when the destruct attachment material corrodes or fails.

(b) Department approved destruct attachment materials are limited to the following:

(1) 14 gauge (.080 + or - .003 inch) or smaller metal hog rings excluding stainless steel or other non-corrodible materials;

(2) untreated cotton twine size No. 21-thread or less, except that traps used to take Dungeness or rock crabs are limited to a single strand of untreated cotton twine size No. 120 or less;

(3) 24 gauge (.028 + or - .003 inch) or smaller uncoated bare metal crimps excluding stainless steel or other non-corrodible materials;

(4) magnesium pins not larger than one-quarter (.25) inch in diameter which may be used to hold together each half of plastic or fiberglass traps or may be used to attach the lid or door; or

(5) The use of rubber straps attached to metal or plastic hooks with a single loop of untreated cotton twine size No. 120 or less may be used to close the trap provided they are attached in such a manner as to aid the



destruct process. The use of any rubber strap or non-corrosive material that defeats the purpose of the destruct panel is prohibited.

(c) [Operative until July 16, 2006] Notwithstanding subsection (a) above, traps used to take Dungeness crabs, which are constructed of wire mesh, may have up to three meshes (described as “V”s or a “W” and a “V”) that protrude into the destruct device opening provided that the points of each of these meshes are separated by at least one side (bar) of an adjoining mesh that has been removed and each of the meshes extend into the opening a distance of not more than 2 1/2 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the destruct attachment material. On Dungeness crab traps constructed of wire mesh, the panel containing the destruct device and the wire mesh acting as an anchor for the destruct material must be constructed of a single wire no greater than .050 inches in diameter. This subsection shall become inoperative on July 16, 2006 and is repealed effective that date.

(c) [Operative July 16, 2006] Notwithstanding subsection (a) above, traps used to take Dungeness crabs, which are constructed of wire mesh, may have not more than a single wire mesh (described as a “V”) that protrudes into the destruct device opening provided that mesh extends into the opening a distance of not more than 2 1/2 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the destruct attachment material. On Dungeness crab traps constructed of wire mesh, the panel containing the destruct device and the wire mesh acting as an anchor for the destruct material must be constructed of a single wire no greater than .050 inches in diameter. This subsection shall become operative on July 16, 2006.

### **§180.3. Restricted Access Fishery.**

(a) Control Date. A control date of January 1, 1999, is established for the purpose of developing a restricted access prawn trap fishery. Only those vessels which have made at least one prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery.

(b) Qualifications of Permittee. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general trap permit, pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked. A spot prawn trap vessel permit shall be issued only to the following persons for use on qualifying vessels:

(1) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum landing requirements:

(A) At least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) At least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(C) At least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(D) Spot prawn trap vessel permits issued pursuant to subsection (b)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the maximum number of traps pursuant to Section 180.1, Title 14.

(2) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subsection (b)(1) and has satisfied at least one of the following minimum

landing requirements:

(A) At least 10 landings of spot prawns, utilizing traps, in calendar year 1998;

(B) At least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(C) Spot prawn trap vessel permits issued pursuant to subsection (b)(2) shall be considered as Tier 2 permits. Permitted vessels with Tier 2 permits are limited to fishing a maximum of 150 spot prawn traps at any one time and may not exceed a maximum of 2,500 pounds of spot prawns landed in any permit year. The revenue from any landings in excess of 2,500 pounds in any permit year shall be forfeited to the department.

(3) Any individual, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds in one of those years, shall be issued a Tier 2 permit.

(c) Capacity Goal. The commission has determined that the spot prawn trap fishery capacity goal for Tier 1 permits shall be 17. The commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(1) If the number of permits in Tier 1 is greater than 17 when this restricted access program is implemented, the following provisions will be in effect: An individual would be allowed one Tier 1 permit only if the individual purchases two existing Tier 1 permits. A total of 500 traps would be allowed for the Tier 1 permit. If the purchaser is an existing Tier 2 permittee, the Tier 2 permit would be retired. A permit holder of multiple Tier 1 permits must have all Tier 1 permits on the permit holder's vessel.

(2) If the number of permits in Tier 1 falls below 17, the following provisions will be in effect:

(A) The individual with an active Tier 2 permit and with the greatest amount of spot prawn landings, using traps, among active Tier 2 permit holders for the 5-year period June 1, 1996 to May 31, 2001 would be awarded the first available Tier 1 permit.

(B) The individual with an active Tier 2 permit and with the second greatest amount of spot prawn landings, using traps, among active Tier 2 permit holders would be awarded the next available Tier 1 permit, and so on until all Tier 2 permits are retired. After this time, when only Tier 1 permits exist, transfers will only be permitted on a one-to-one basis so as not to further reduce the number of permits.

(d) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permit.

All applications and permit fees for initial issuance of spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(e) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit

(f) Annual Spot Prawn Trap Vessel Permit Renewal. Applications for renewal of a spot prawn trap vessel permit shall be received by the department, or, if mailed, postmarked, by April 30 of each year. Applications for a spot prawn trap vessel permit received from May 1 to May 31 will be assessed a late fee. Spot prawn trap vessel permit renewals received after May 31, or if mailed, postmarked after May 31, shall become expired, shall be returned unissued to the applicant, and shall no longer be eligible for renewal in subsequent years.

(g) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the department in writing with a letter sent to Department of Fish and Game,

Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940.

(h) Appeal for Reinstatement of an Expired Spot Prawn Trap Vessel Permit. The department may re-issue a spot prawn trap vessel permit that has not been applied for by the application deadline if the department finds that the failure to renew the permit prior to the expiration date was due to death of the permittee or immediate family member; physical illness, or other hardship. The appeal for reinstatement of an expired spot prawn trap vessel permit shall be received by the department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.

(i) Revocation of Permit. A spot prawn trap vessel permit shall be revoked if the permittee fails to:

(1) Renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code; or

(2) Submits false information for the purposes of obtaining a spot prawn trap vessel permit.

(j) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel. A transfer of a spot prawn trap vessel permit may be approved for use on a replacement vessel only if all of the following criteria are met:

(1) The vessel owner submits a written request for transfer to the department and pays a non-refundable transfer fee.

(2) Under penalty of perjury the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her judgement.

(3) The spot prawn trap vessel permit has not been previously transferred in the previous 12 months unless the vessel was lost, stolen, or destroyed within the previous 12 months.

(4) The spot prawn trap vessel permit for the permitted vessel is current, and the owner of the permitted vessel renewed the permit which becomes due during the application processing period prior to the expiration of the permit.

(5) The permitted vessel owner has written authority from the legal owner and/or partners, or mortgager, of the vessel, to which the permit shall be transferred, to transfer the spot prawn trap vessel permit from the permitted vessel.

(k) Change of Ownership of a Spot Prawn Trap Vessel Permit.

(1) Tier 2 spot prawn trap vessel permits shall not be transferrable to another individual.

(2) All Tier 1 spot prawn trap vessel permits shall be transferrable to another individual, but not more than once within any 3-year period, and not before April 1, 2005. A change of ownership of a spot prawn trap vessel permit may be approved only if the vessel owner submits a written request for change of ownership to the department and pays a non-refundable change of ownership fee. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:

(A) The person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked,

(B) The person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.

(3) Notwithstanding subsection (k)(2), on the death of a spot prawn trap vessel Tier 1 permittee an heir may apply to the department to transfer that permit to him or her. The application for transfer shall be received by the department within one year of the death of the permittee.

(l) Appeals.

(1) Any applicant who is denied initial issuance of a spot prawn trap vessel permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. The appeal shall be reviewed and decided by the department. The decision of the

department may be appealed in writing to the commission within 60 days of the date of the department's decision

(2) Any applicant who is denied renewal of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(4) In the above cases, the commission may order the department to issue or transfer the permit upon appeal if the commission finds that the appellant qualified for a permit under the restrictions of the restricted access program.

(m) Fees.

(1) The department shall charge an annual fee for each spot prawn trap vessel permit of two hundred fifty dollars (\$250.00).

(2) The department shall charge a non-refundable fee of two hundred dollars (\$200.00) for each vessel transfer.

(3) The department shall charge a non-refundable fee of fifty dollars (\$50.00) for each change of ownership of the spot prawn trap vessel permit.

(4) The department shall charge a non-refundable late fee of fifty dollars (\$50.00) if an application for initial issuance of a spot prawn trap vessel permit is received from July 1 to July 31, 2002.

(5) The department shall charge a non-refundable late fee of fifty dollars (\$50.00) if an application for renewal of a spot prawn trap vessel permit is received from May 1 to May 31.

#### **§180.4. Finfish Trap Construction.**

The entrance funnels of finfish traps used in waters between Point Arguello, Santa Barbara County, and Point Montera, San Mateo County, shall have a rigid inside entrance diameter of not greater than 5.00 inches. Funnels constructed of a readily deformable material such as "chicken wire" and commonly referred to as "pulled" shall have a rigid metal ring of not greater than 5.00 inches in diameter permanently affixed in each entrance funnel.

#### **§180.5. Trap Buoy Identification.**

Pursuant to the provisions of Section 9005 of the Fish and Game Code, every trap or string of traps placed in waters of the state to take fin fish, mollusks or crustaceans for commercial purposes shall be marked with a buoy. Buoys used to mark any trap or string of traps shall be clearly and distinctly marked with a buoy identification number as required by Section 9006 of the Fish and Game Code. The specified identification number shall be at least one and one-half inches in height and one-quarter inch in width. Each trap marker buoy shall bear the specified number in a color which contrasts with that of the buoy and the number shall be applied so that it is visible and legible.

#### **FGC Excerpts**

#### **§8275. Dungeness Crab; Market Crab; Owner; Reconstruction; Rock Crab; Under Construction.**

Unless the provision or context otherwise requires, the definitions in this section govern the construction of this article.

(a) "Dungeness crab" or "market crab" means crab of the species *Cancer magister*.

(b) "Reconstruction" means major work on the hull of a vessel to make that vessel operable in the California crab fishery if that work may reasonably be expected to be of a duration that will preclude operation of that vessel in the crab fishery for the length of the crab season or longer.

(c) “Rock crab” means any crab of the genus *Cancer* other than Dungeness crab and includes rock crab (*Cancer antennarius*), red crab (*Cancer productus*), and yellow crab (*Cancer anthonyi*).

(d) “Under construction” means having plans and materials and proceeding with work toward the completion of an operational Dungeness crab fishing vessel.

#### **§8281. Possession and Transportation of Crab Meat.**

Crab meat and frozen whole crabs or parts thereof, which are taken during the open season, may be possessed, transported, and sold at any time, subject to the regulations of the commission. The cost of inspection and marking, under the regulations of the commission, shall be paid by the owner or seller of such crab meat, crabs, or part thereof.

#### **§8282. Taking Rock Crab.**

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, and subject to the regulation of the commission authorized under subdivision (c), rock crab may be taken in traps in any waters of the state at any time, except in Districts 9, 19A, 19B, and 21 and those portions of District 20 lying on the north and east sides of Santa Catalina Island north of Southeast Rock. Rock crab (*Cancer antennarius*), red crab (*Cancer productus*), or yellow crab (*Cancer anthonyi*), which is less than 4 1/4 inches, measured in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, or sold.

(b) Any person taking rock crab shall carry a measuring device and shall measure any rock crab immediately upon removal from the trap. If the person determines that the rock crab is undersize, the person shall return it to the water immediately.

(c) Upon the recommendation of the director regarding rock crab fishery management measures, and following a public hearing on the matter, at which findings are adopted, the commission may adopt regulations to manage the rock crab resource consistent with Part 1.7 (commencing with Section 7050).

#### **§8284. Taking with Traps, Species to be Released if Taken Incidentally.**

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, crab traps, as described in Section 9011, may be used to take Dungeness crab for commercial purposes. Any fish may be taken incidentally in crab traps being used to take Dungeness crab.

(b) Any other species taken incidentally in a crab trap being used to take rock crab, except as provided in this subdivision, shall be released. The following species may be taken incidentally in crab traps being used to take rock crab under a permit issued pursuant to Section 9001 in Districts 19 and 118.5, and any other species taken incidentally with a crab trap being used to take rock crab shall be released:

- (1) Kelleys’ whelk.
- (2) Octopus.
- (3) Crabs, other than the genus *Cancer*.

#### **§8400. Baitfish; Taking Restrictions.**

(a) California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken for commercial purposes with baitfish traps in the tidewaters of Districts 3 1/2, 4, 4 1/8, 4 1/4, 16, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.

(b) Shiner perch (*Cymatogaster aggregata*), staghorn sculpin (*Leptocottus armatus*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken for commercial purposes with baitfish traps in Districts 11, 12 and 13 and in the tidewaters of Districts 2 and 2 1/2.

(c) Any unauthorized species taken incidentally in baitfish traps in the districts specified in subdivisions (a) and (b) shall be immediately released.

(d) Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

#### **§8403. Fin fish; Taking.**

(a) To the extent not in conflict with Section 8607, marine species of fin fish which are classified as groundfish may be taken under the regulations of the commission.

(b) Marine species of fin fish, including, but not limited to, fin fish which are classified as groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000) of Chapter 4, under regulations of the commission. The regulations may limit the number of fin fish traps which any vessel may use, designate the areas in which the traps may be used, and prescribe other limitations on the use of fin fish traps.

(c) Any other species not otherwise prohibited may be taken in a fin fish trap.

#### **§8593. Areas for taking.**

Except as provided in this article, prawns or shrimp may be taken in any waters of this state.

#### **§8594. Depth Minimum for Taking.**

From Point Conception south to the Mexican border, prawns or shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

#### **§8595. Trawl Nets; Use and restrictions.**

(a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1 (commencing with Section 9000) of Chapter 4.

(b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

#### **§8604. Illegal disturbance or injury to net or trap; Exception.**

It is unlawful willfully to disturb or injure any net, trap, or other apparatus to take fish which is being legally used in the waters of this state.

This section does not apply to employees of the department while they are engaged in the performance of their official duties.

#### **§8660. Use Within 750 Feet of Pier, Wharf, Jetty or Breakwater; Exception.**

Nothing in this chapter authorizing the use of nets in District 19 or 19A shall authorize the use of any net\* within 750 feet of any pier, wharf, jetty, or breakwater, except that dip nets may be used subject to the provisions of Section 8870.

\*“Net” is defined in FGC §56 on page 57.

#### **§9000. Use Trap to Take Fin Fish, Mollusk, or Crustacean Commercially.**

(a) Except as expressly authorized in this article, no person shall use a trap to take any finfish, mollusk, or crustacean in the waters of this state for commercial purposes.

(b) Traps, which are authorized to be used under this article, may be used to take finfish in ocean waters.

(c) Freshwater baitfish traps may be used as provided in Section 8463, and that use is not subject to this article.

#### **§9001. Permit for Trapping Fin Fish, Mollusks, or Crustaceans Commercially.**

(a) Finfish, mollusks, or crustaceans shall not be taken by a person with traps for commercial purposes in ocean waters except under a valid general trap permit issued to that person that has not been suspended or revoked.

(b) Any person who operates or assists in operating any trap to take finfish, mollusks, or crustaceans, other than lobster or Dungeness crabs, as defined in Section 8275, or who possesses or transports finfish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is



aboard, shall have a general trap permit issued to that person that has not been revoked or suspended while engaged in the activity.

(c) The fee for the general trap permit shall be thirty-five dollars (\$35).

(d) This section does not apply to the taking of lobster under Section 9010 or to the taking of Dungeness crab under Section 9011.

#### **§9002. Disturb, etc., Traps of Another.**

(a) Except as provided in subdivisions (b), (c), and (d), it is unlawful to willfully or recklessly disturb, move, or damage any trap which belongs to another person and that is marked with a buoy identification number pursuant to Section 9006.

(b) A person, who has been issued a general trap permit under Section 9001 and has it in his or her possession, may pull or raise a trap marked with a buoy, if the buoy is marked with a buoy identification number pursuant to subdivision (b) of Section 9006. A person pulling or raising a trap marked with a buoy identification number, other than his or her own buoy identification number, shall have written permission in his or her possession from the other person who holds the buoy identification number that is marked on the buoy.

(c) Subdivision (a) does not apply to employees of the department while engaged in the performance of official duties.

(d) (1) Subdivision (a) does not apply to publicly employed safety personnel, including, but not limited to, lifeguards, marine safety officers, harbor patrol officers, and peace officers, who, while engaged in the performance of their official duties, may remove a trap, buoy, or line located in or near breaking surf or adjacent to a public beach if they believe that the trap poses a public safety hazard. If any of those persons remove a trap, a buoy, or a trap or buoy line, any captured marine life shall be immediately returned to the ocean.

(2) Any person described in this subdivision who removes a trap and any attachments thereto identified by a buoy identification number shall make an attempt to contact the person whose permit or license number is marked on the buoy by personal contact, by telephone, by recorded message left on a telephone answering machine, by regular United States Postal Service, or by other means, advising where the property is located. Those persons shall have no responsibility to secure the trap or attachments against loss or damage.

(3) Employees of the department may disclose the name, address, and buoy identification numbers of currently permitted or licensed persons to representatives of public safety agencies described in this subdivision to assist in the return of traps and attachments to their proper owners or operators.

(4) If the person whose permit or license number is marked on the buoy has been notified pursuant to this subdivision but has not retrieved the trap within seven days of notification, or if that person cannot be identified within seven days after the trap has been removed, the trap may be discarded.

(5) This subdivision does not create any duty on any state or local agency to remove or move a trap, line, or buoy that may endanger the public safety and does not create any liability pursuant to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

#### **§9003. Destruct devices.**

Every trap shall have at least one destructive device which meets specifications approved by the department. In order to minimize the adverse effects on living marine resources, the specifications for destruction devices shall provide for a device that destructs rapidly enough to facilitate escape of substantial proportion of all species confined in the trap from any trap that cannot be raised.

#### **§9004. Trap Raising Intervals; Abandonment Prohibited.**

Every trap shall be raised, cleaned, serviced, and emptied at intervals, not to exceed 96 hours, weather conditions at sea permitting, and no trap shall be abandoned in the waters of this state.

#### **§9005. Buoy Markers Required.**

Every trap or string of traps, shall be marked with a buoy.

#### **§9006. Buoy I. D. Number Requirements.**

Any buoy used to mark a trap shall be clearly and distinctively marked with a buoy identification number, as follows:

(a) The buoy identification number for a lobster trap used to take lobster under a lobster permit issued pursuant to Section 8254 is the commercial fishing license number issued to the operator of the trap pursuant to Section 7852 followed by the letter "P."

(b) The buoy identification number for a trap, which is used under a general trap permit issued pursuant to Section 9001 or a crab trap used to take Dungeness crab under Section 9011 is the commercial fishing license number issued to the operator of the trap pursuant to Section 7852.

(c) The buoy identification number for a trap used to take finfish under a finfish trap permit issued pursuant to Section 9001.5 is the commercial fishing license number issued to the operator of the trap pursuant to Section 7852, followed by the letter "Z".

#### **§9007. Removal of traps without buoy or with unmarked buoy.**

Any trap used without a buoy, or with a buoy which is not marked pursuant to Section 9006, is a public nuisance and shall be removed from the waters of this state by any person authorized to enforce this code.

#### **§9008. Traps used in violation of this code.**

Any trap used in violation of this code, or any regulations adopted pursuant thereto, is a public nuisance and, except as provided in Section 9007, shall be seized pursuant to Article 3 (commencing with Section 8630) of Chapter 3.

#### **§9011. Crab Trap Requirements.**

(a) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, dungeness crab, as defined in Section 8275, may be taken with dungeness crab traps.

(2) A dungeness crab trap may have any number of openings of any size. However, every dungeness crab trap shall have at least two rigid circular openings of not less than 4<sup>1</sup>/<sub>4</sub> inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(3) Any rock crab taken with a crab trap used pursuant to this subdivision to take dungeness crab shall be immediately returned to the waters from which it was taken. No person shall possess rock crab aboard any vessel when the vessel is being used to take dungeness crab.

(b) (1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab, as defined in Section 8275, may be taken with rock crab traps.

(2) A rock crab trap may have any number of openings of any size. However, a rock crab trap constructed of wire mesh with an inside mesh measurement of not less than 1<sup>7</sup>/<sub>8</sub> inches by 3<sup>7</sup>/<sub>8</sub> inches, with the 3<sup>7</sup>/<sub>8</sub> inch measurement parallel to the floor shall have at least one rigid circular opening of not less than 3<sup>1</sup>/<sub>4</sub> inches, inside diameter, located on any outside wall of the rearmost chamber of the crab trap and shall be located so that at least one-half of the opening is in the upper half of the trap. Rock crab traps constructed of other material, shall have at least two rigid circular openings of not less than 3<sup>1</sup>/<sub>4</sub> inches, inside diameter, on the top or side of the rearmost chamber of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap. No rigid circular opening, as required, shall extend more than 1/2 inch beyond the plane of the wall side or top of the trap in which it is located, and it shall be clearly accessible to any crab which may be in the trap.

(3) No person shall possess any lobster aboard a vessel while the vessel is being used pursuant to this subdivision to take rock crab. Any dungeness crab taken with a crab trap pursuant to this subdivision to take rock crab shall be immediately returned to the waters from which it was

taken. No person shall possess dungeness crab aboard any vessel when the vessel is being used to take rock crab.

**§9012. Take crab commercially and for sport on same day from vessel prohibited; Restrictions on use in Districts 6, 7, 8, and 9.**

(a) No vessel may be used to take and land crab for both commercial and sport purposes in the same day.

(b) In Districts 6, 7, 8, and 9, no trap shall be used to take Dungeness crab if that trap is attached to another trap or other traps by a common line.

**§9015. Prawn and shrimp trap requirements.**

(a) Subject to Article 18 (commencing with Section 8590) of Chapter 2, prawns or shrimp, as defined in Section 8590, may be taken with prawn traps or shrimp traps under a general trap permit issued pursuant to Section 9001.

(b) A prawn trap or a shrimp trap shall be six feet or less in its greatest dimension. Every opening from the exterior to the interior of a prawn trap or a shrimp trap shall be five inches or less in any dimension.

**§9020. Bait-fish trap requirements.**

(a) Subject to Section 8400, California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys mirabilis*), yellowfin gobies (*Acanthogobius flavimanus*), shinerperch (*Cymatogaster aggregata*), and staghorn sculpin (*Leptocottus armatus*) may be taken with baitfish traps under a general trap permit issued pursuant to Section 9001.

(b) A baitfish trap shall not exceed 12 inches in width, 12 inches in height, and 36 inches in greatest length with entrance at small ends of funnels or fykes not to exceed 2 inches in diameter.

**§9022. Fin fish trapping; Restricted Districts; Exceptions.**

(a) Notwithstanding Section 9000, traps used to take fin fish may not be used in Districts 10, 11, and 12, except for bait fish traps as provided for in Sections 8400 and 9020.

(b) Except as otherwise provided in subdivision (a), all marine species of fin fish subject to Section 8403 may be taken with one or more fin fish traps as prescribed by the commission under a general trap permit issued pursuant to Section 9001.